



WP No.9750 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2026

CORAM

THE HON'BLE MR.SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

WP No.9750 of 2011

The Commercial Tax Officer-I,
Commercial Taxes Department,
Office of the Commissioner (CT),
Puducherry.

.. Petitioner

-VS-

1. UCO Bank
Rep. By its Authorised Officer,
Main Branch, Pondicherry 605 001.

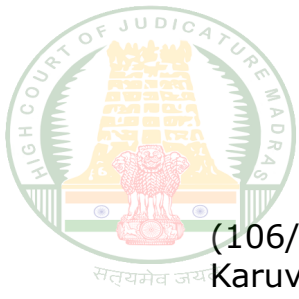
2. Maruthi Agencies,
Rep. By R.Thirumalai,
Plot No.3, VIP Nagar,
Arumparthapuram, Puducherry.

3. T.Saravanan

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the Tender Sale Notice dt:12.03.2011 on the file of 1st respondent and quash the same and consequently, direct the 1st respondent to enforce its right subject to the priority rights of the petitioner provided u/s.37 of the Puducherry Value Added Tax Act 2007 and u/s.27 of the Pondicherry General Sales Tax Act 1967 r/w Sec.81 of the Puducherry Value Added Tax Act 2007 over the assets of the respondents 2 and 3 viz., the vacant land bearing R.S.No.106A.37

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(106/37A) Cadastre No.602 20/20, Lawspet Main Road,
Karuvadikuppam Revenue Village, Puducherry.

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For Petitioner : Mr.V.Vasanthakumar
Addl. Govt. Pleader (Puducherry)

For Respondents : Mr.Srinath Srideven
Senior Counsel
for M/s.Aiswarya S.Nathan
for R-1

* * * * *

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The issue raised in this writ petition with regard to the priority charge over the secured assets is squarely covered by the Full Bench Judgment of this Court dated 10.11.2016 passed in a batch of writ petitions, viz., W.P.No.2675 of 2011, etc. (The Assistant Commissioner (CT) vs. The Indian Overseas Bank, Rep. By its Manager and Another), wherein the Full Bench held as follows:

"2.We are of the view that if there was at all any doubt, the same stands resolved by view of the Enforcement of Security Interest and Recovery of Debts Laws and Miscellaneous Provisions (Amendment) Act, 2016, Section 41 of the same seeking to introduce Section 31B in the Principal Act, which reads as under:-

"31B. Notwithstanding anything contained in any other



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law for the time being in force, the rights of secured creditors to realise secured debts due and payable to them by sale of assets over which security interest is created, shall have priority and shall be paid in priority over all other debts and Government dues including revenues, taxes, cesses and rates due to the Central Government, State Government or local authority.

Explanation. - For the purposes of this section, it is hereby clarified that on or after the commencement of the Insolvency and Bankruptcy Code, 2016, in cases where insolvency or bankruptcy proceedings are pending in respect of secured assets of the borrower, priority to secured creditors in payment of debt shall be subject to the provisions of that Code."

3. There is, thus, no doubt that the rights of a secured creditor to realise secured debts due and payable by sale of assets over which security interest is created, would have priority over all debts and Government dues including revenues, taxes, cesses and rates due to the Central Government, State Government or Local Authority. This section introduced in the Central Act is with "notwithstanding" clause and has come into force from 01.09.2016.

4. The law having now come into force, naturally it would govern the rights of the parties in respect of even a lis pending.

5. The aforesaid would, thus, answer question (a) in favour of the financial institution, which is a secured creditor having the benefit of the mortgaged property."



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In view of the above, this writ petition stands disposed of in terms of the aforesaid judgment of the Full Bench. There shall be no order as to costs.

(SUSHRUT ARVIND DHARMADHIKARI, C.J.) (G.ARUL MURUGAN, J.)
06.07.2026

Index : Yes/No
Neutral Citation : Yes/No

sra

To

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